

## Remarks

### A. Status

No claims have been amended or canceled. Claims 1, 3-16, and 18-32 remain pending. A claim listing is included above for the convenience of the Examiner.

### B. The Provisional Double Patenting Rejection is Overcome

Claims 1, 3-16, and 18-32 (all the pending claims) have been provisionally rejected on the ground of nonstatutory, obviousness-type double patenting in view of Patent Application Serial No. 10/072,320 ('320 Application). Applicants respectfully disagree with the present rejection and ask for reconsideration.

The '320 Application is a divisional application of the present case. The double-patenting rejection is improper because a Restriction Requirement was issued in the present case that required Applicants to elect between Group II claims that are the subject of the '320 Application and Group I claims that are the subject matter of the present case. *See* Restriction Requirement dated November 16, 2001 (Paper #5).

The fact that a Restriction Requirement was issued in the present case is an admission by the Patent Office that the claims are independent and distinct. 37 C.F.R. § 1.142(a) ("If two or more independent and distinct inventions are claimed in a single application, the examiner in an Office Action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted...."). In fact, the MPEP confirms that the present double patenting rejection is improper:

**Where restriction is required by the Office double patenting cannot be held,** and thus, it is imperative the requirement should never be made where related inventions as claimed are not distinct.

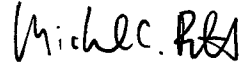
MPEP § 806 (emphasis added).

Applicants request that this rejection be withdrawn.

C. Conclusion

Applicants believe that this submission fully responds to all outstanding matters for this application and that the present case is in condition for allowance. If the Examiner has any questions, please contact the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael C. Barrett".

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